

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

MAY 22, 2000

IN RE:

APPLICATION OF CCCTN, INC. D/B/A  
CONNECT! FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE COMPETING FACILITIES-BASED  
AND RESOLD LOCAL TELECOMMUNICATIONS  
SERVICES IN THE STATE OF TENNESSEE

DOCKET NO. 99-00854

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ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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On March 28, 2000, this matter came before the Tennessee Regulatory Authority ("Authority"), upon the Application of CCCTN, Inc., d/b/a Connect! ("Connect!") for a Certificate of Public Convenience and Necessity to Provide Competing Facilities-Based and Resold Local Telecommunications Services in the State of Tennessee (the "Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

The Application of Connect! was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall

commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate

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(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

In addition, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses and (2) information on programs that might provide technical assistance to such businesses.

#### INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to or during the hearing.

## CONNECT!'S HEARING

The Application of Connect! was uncontested. At the hearing held on March 28, 2000, Connect! was represented by Ms. D. Billye Sanders of Waller Lansden Dortch & Davis, 511 Union Street, Suite 2100, Nashville, Tennessee 37219. In addition, Ms. Cindy Lee, Manager of Regulatory Affairs of Connect!, presented testimony and was subject to examination by the Authority's Directors. Through its counsel, Connect! requested that the confidential documents that had been filed under seal in this docket remain under seal and not be disclosed to the public; the Authority granted this request. Upon conclusion of the proof in this case, the Authority granted the Application of Connect! based upon the following findings of fact and conclusions of law:

### **1. APPLICANT'S QUALIFICATIONS**

1. CCCTN, Inc., d/b/a Connect! is a Tennessee corporation that was incorporated on February 4, 1999.

2. The complete street address of the principal place of business of Connect! is 124 W. Capitol Avenue, Suite 250, Little Rock, Arkansas, 72201. The phone number is 501-401-7700 and the fax number is 501-401-7799. Connect! is represented by D. Billye Sanders, Esq. of Waller Lansden Dortch & Davis, 511 Union Street, Suite 2100, Nashville, Tennessee 37219, and Jonathan E. Canis, Esq. and Erin R. Swansiger, Esq. of Kelley Drye & Warren LLP, 1200 19<sup>th</sup> Street N.W., Suite 500, Washington, D.C. 20036.

3. The Application and supporting documentary information existing in the record indicate that Connect! has the requisite technical and managerial qualifications necessary to provide a full array of local exchange and intraLATA interexchange telecommunications services within the State of Tennessee on a facilities-based and resale basis. The management

and technical teams of Connect!, and those of its affiliate Connect Communications Corp. (“CCC”), have particular expertise in the development and deployment of facilities-based and resold telecommunications services.

4. Through its affiliates, Connect! has the necessary capital and financial qualifications to provide the services it proposes to offer.

5. Connect! has represented that it will adhere to all applicable policies, rules, and orders of the Authority.

## **II. PROPOSED SERVICES**

1. Connect! intends to provide resold and facilities-based local exchange telecommunications services to business and residential customers, including, but not limited to, originating and terminating local exchange access services to single-line and multi-line customers; plain old telephone service (“POTS”); high-speed data transmission services, including digital subscriber line (“DSL”) and asynchronous transfer mode (“ATM”); Internet access; multi point-to-point protocol (“PPP”); access to 911 and E911 emergency services; directory assistance and operator assisted calling and white page listings; consumer access to and support for the Tennessee Relay Center in the same manner as the incumbent local exchange telephone companies; free blocking for 900 / 976 services in accordance with TRA policy; Lifeline and Link-up services to qualifying customers and educational discounts, where appropriate. Connect! will also provide switched and special access/dedicated service offerings to other common carriers.

2. Connect! will also offer a full range of switched-based resold interexchange services through its affiliate Connect!LD whose Application was approved by the Authority in Docket Number 99-00856.

3. Except as may be authorized by law, Connect! does not intend to serve any areas currently being served by an incumbent local telephone company with fewer than 100,000 total access lines where local exchange competition is prohibited pursuant to Tenn. Code Ann. § 65-4-201(d).

### **III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY**

Upon a review of the Application and the record in this matter, the Authority finds that approval of the Application of Connect! would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and by fostering the development of an efficient, technologically advanced, statewide system of telecommunications services.

### **IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM**

1. Connect! has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules.

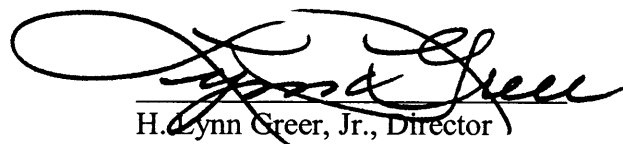
2. Connect! has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

### **IT IS THEREFORE ORDERED THAT:**

1. The Application of Connect! as applied for is approved;
2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order; and

3. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

  
Melvin J. Malone, Chairman

  
H. Lynn Greer, Jr., Director

  
Sara Kyle, Director

ATTEST:

  
K. David Waddell, Executive Secretary